

A Critique of Robert Spencer's Views Regarding Dhimmis and Jizya

• Mr.Saeed Akhtar

•• Dr.Ata ur Rahman

Abstract:

The following research paper is an academic and historical study of Robert Spencer's views about Dhimmis and Jizya. According to Robert Spencer, dhimmis are treated like 'guilty' people and subjected to biased and stringent conditions. Furthermore, he believes that there is an entire system of regulations that institutionalize an inferior status for non-Muslims in Islamic law. This paper is an academic effort, aiming to prove that Islam does not treat non-Muslim citizens as inferior and second class citizens nor imposes unbearably rigorous taxes on them. It consists of two parts: the first deals with Robert Spencer's views regarding Dhimmis and the second part takes into account his views about Jizya. In this connection, all his views and allegations have been taken into consideration and an attempt has been made to absolve Islam of such groundless allegations.

The status of *dhimmis* and *jizya* have invariably attracted the attention of non-Muslim critics of Islam. The following paper deals with allegations regarding *dhimmis* and *jizya* as brought against Islam by Robert Spencer. He is an American author known for his criticism of Islam. He is a member of the Melkite Greek Catholic Church. He received a B.A in 1983 and an M.A in 1986 in Religious Studies from University of North Carolina at Chapel Hill. His Master thesis was on Catholic history. He has been studying Islamic Theology, law and history since 1980.

So far he has brought out twelve books which include two New York Times best-selling books.¹

Dhimmi is a historical term referring to non-Muslim subjects of a Muslim state². The word literally means, "One whose responsibility is taken" or "people with whom a covenant or compact has been made"³. It is noteworthy that Islam does not prefer the term "minority" in regards to the non-Muslims living in Islamic state instead uses the term "*Ahl-udh-dhimmah*" (people of the covenant), which bears a moral significance not reflected in the term "minority". The word *dhimmah* means protection – as in the hadeeth in Sunan Abi Dawud –

• Ph.D Research Scholar, Deptt: Islamic Studies, University of Malakand.

•• Chairman, Deptt: Islamic Studies, University of Malakand.

“the lowest (of the Muslims) carries their protection”. In the classical dictionary of Arabic *Lisan-ul- Arab*, *dhimmah* is defined as “the protection, covenant, sanctity, guarantee and duty”.

But Robert Spencer comes up with a bizarre definition of *dhimmah*. In his book, *The Truth About Muhammad*, he writes: “the Qur'an calls Jews and Christians "People of the Book," Islamic law calls them *dhimmis*, which means "protected " or "guilty" people—the Arabic word means both.

They are "protected" because as People of the Book they have received genuine revelations ("the Book") from Allah and thus differ in status from out-and-out pagans and idolaters like Hindus and Buddhists. Jews and Christians are "guilty" because they have not only rejected Muhammad as a prophet, but have also distorted the legitimate revelations they Received from Allah.⁴

Contrary to his definition of the word, *dhimmi* refers to those citizens of a Muslim State whose life, property and religious practices are fortified in return for a nominal tax, called *jizya*. In the past, when empires waged and won wars, common men were enslaved and forced to drudge hard as laborers and serve in the military. Islam abolished such cruel practice by awarding all non-Muslim subjects the significant *dhimmi* status⁵. This special and significant status of *Dhimmis* can be observed when Muhammad (SAW) established the city-state of Medina. Muhammad (SAW) said, “If anyone wrongs a man with whom a covenant has been made [i.e. a *dhimmi*], or holds back any of his rights, or imposes on him more than he can bear, or takes anything from him without his consent, *I shall be his adversary* on the Day of Resurrection.”⁶ He also made it clear that the protection of their life and honor was the responsibility of the Muslims, and failing in this regard would incur God’s wrath, “Whoever killed a *Mu’ahid* (i.e. a *dhimmi*) shall not smell the fragrance of Paradise though its fragrance can be smelt at a distance of forty years (of traveling).”⁷ When Prophet Muhammad (SAW) entered Mecca with great military might, he could take revenge on those enemies of Islam who had persecuted him for over two decades. But instead of revenge he declared amnesty in the following words:

‘O’ Quraish! how do you think I would treat you?’ They replied: ‘We expect nothing but good from you as you are a noble and kind brother to us and the son of a noble and kind brother as well.’ The Prophet said, ‘I say to you what the Prophet Joseph said to his brothers: ‘No blame shall lie on you this day! You are free to go.’⁸

Long before the conquest of Mecca, the Charter of Medina set the precedent for the treatment of those non-Muslim subjects with whom the state had reached a negotiated settlement. When Prophet Muhammad was popularly appointed Medina’s ruler, he concluded a pact with the Jewish communities of Medina. Through this pact, he bestowed equal political rights on non-Muslims. They were granted perfect religious freedom. They were not required to participate in the religious wars of the Muslims, but were required to fight in

case of confrontation with the common enemy of the State. Both Muslims and non-Muslims enjoyed equal social status. For instance, “Once a funeral procession passed by Prophet Muhammad and he stood up (as a token of deference). When he was informed that the dead man was a Jew, he remarked: ‘Was he not a human being or did he not have a soul?’”⁹

After the sad departure of Prophet Muhammad (SAW), non-Muslim citizens of the mighty Islamic empire enjoyed the same dignified treatment.¹⁰ History is evident of the fact that after the conquest of Jerusalem, the Second Caliph clearly stipulated in his pact with the inhabitants of the city:

In the name of Allah, the most Gracious, most Beneficent. This is a covenant of peace granted by the slave of Allah, the commander of the faithful ‘Umar to the people of Jerusalem. They are granted protection for their lives, their property, their churches, and their Crosses, in whatever condition they are. All of them are granted the same protection. No one will dwell in their churches, nor will they be destroyed and nothing will be reduced of their belongings. Nothing shall be taken from their Crosses or their property. There will be no compulsion on them regarding their religion, nor will any one of them be troubled.¹¹

A dhimmi assassin assaulted Umar (RA) in 644 CE. Rather than declaring a policy of revenge and retaliation against dhimmis, Umar (RA) issued the following orders:

I advise him (i.e., the new Caliph) to take care of those non-Muslims who are under the protection of Allah and His Messenger in that he should observe the convention agreed upon with them, and fight on their behalf (to ensure their safety) and he should not tax them beyond their financial capabilities.¹²

Spencer alleges that Islam enforces heavy taxation on non-Muslims populations. He remarks,

“non-Muslims often converted to Islam to avoid this tax”. He further adds, “in other instances, however, conversion to Islam was forbidden for *dhimmis* – it would destroy the base of tax.” But Spencer’s view is refuted by a historical evidence when Ali (RA) wrote to the collectors of the *kharaj*:

When you come to them, do not sell their garments preserved for winter or summer, or the food they eat, or the animals they need. Don't whip any of them for a dirham, and do not oblige them to stand on one leg for a dirham. Do not sell any of their household goods for the payment of *kharaj*, because we accept from them what they have. If you do not comply with my orders, Allah will punish you in my absence. And if I receive any complaint against you in this concern, your services will be terminated. The officer said, "Then I return to you as I left you."¹³

Sir Thomas Arnold says:

'The jizya was so light that it did not constitute a burden on them, especially when we observe that it exempted them from compulsory military service that was an obligation for their fellow citizens, the Muslims.'¹⁴

Spencer holds that dhimmis were made to live under horribly strict conditions which always reminded them of their 'second class status'. But such a view appears highly groundless when we read the statement of a famous classical scholar of Islam, Imam Awza'i in his letter to the Abbasid governor Salih b. 'Ali b. Abdullah regarding the People of the Covenant:

"They are not slaves, so beware of changing their status after they have lived in freedom. They are free People of the Covenant."¹⁵

Khalid ibn al-Walid, in his covenant with the people of Anat, wrote: "They are allowed to ring their bells at any time of the day or night, except at the Islamic prayer times. They are allowed to bear their crosses in their festivals."¹⁶ These remarks contradict Spencer's views who believes dhimmis had no religious freedom.

In his book, *Al-Khitat*, the famous historian Al-Maqrizi has given several examples and concludes, "It is agreed that all the churches of Cairo were established after the coming of Islam."¹⁷

Patriarch Ghaytho wrote:

"The Arabs, to whom the Lord has given control over the world, treat us as you know; they are not the enemies of Christians. Indeed, they praise our community, and treat our priests and saints with dignity, and offer aid to churches and monasteries."¹⁸

Historical proofs substantiate that Muslim Caliphs severely condemned taxing dhimmis beyond their means and commanded to take exceptional care of dhimmis' life, property and freedom. Ibn Al Najaar Al Hanbali writes, "The ruler of the Muslim community is bound to protect the non-Muslims and to save them from aggression. Should they fall into captivity, the Imam must martial all the resources to secure their release and punish the transgressors against their lives and properties even if they were the sole non-Muslims living in a remote village."¹⁹

Having established that Islam required Muslims to protect *dhimmis* with equal and just treatment, we move on to Spencer's allegations regarding *jizya*. As made clear above the term *dhimmi* literally means "protected." If no such protection existed, such minority communities could potentially be exploited. The *jizya* tax was the only tax imposed on non-Muslims, and it was less in number and amount far less than taxes on the Muslims of that state. The term *jizya* comes from the same Arabic root as *jaza'* which means "reward" and "compensation"²⁰. Thus, non-Muslims paid *jizya* as free citizens of the Muslim State in return for protection of their civil and political liberties. Aside from this,

critics also hide the fact that Muslims were also taxed. The tax levied on Muslims was on some occasions a heavier tax than the *jizya*. Additionally, Muslims were obligated to perform military service, from which all non-Muslims were exempt.²¹

Jizya was collected only when the state could provide the *dhimmi*s full protection against foreign invasions. It was unlawful in case of the state's inability to ensure their protection. In his book "*The Preaching of Islam*," Thomas Arnold records a statement of the Muslim general, Khalid bin Waleed, "In a treaty made by Khalid with some town in the neighborhood of *Hirah*, he writes; 'If we protect you, then *Jizya* is due to us; but if we do not, then it is not.'²²

Abu Ubaida was a famous Muslim commander of Syria. When he entered the city of Hims, he made a pact with its non-Muslim inhabitants and collected the *jizya* as agreed. When the Muslims learned of a massive advance towards the city by the Roman Emperor Heraclius, they felt they would not be able to protect its citizens. Consequently, Abu Ubaida ordered all the dues taken as *jizya* to be returned to the people of the city. He said to the people of the city, "We are not able to defend you anymore and now you have complete authority over your matters."²³ Al-Azdi records Abu Ubaida's statement as follows:

We have returned your wealth back to you because we detest taking your wealth and then failing to protect your land. We are moving to another area and have called upon our brethren, and then we will fight our enemy. If Allah helps us defeat them we shall fulfill our covenant with you except that you yourselves do not like it then.²⁴

The people of Hims generously appreciated the fair and just attitude of Muslims. History records their response in the following words:

"Verily your rule and justice is dearer to us than the tyranny and oppression in which we used to live."²⁵ May God again make you ruler over us and may God's curse be upon the Byzantines who used to rule over us. By the Lord, had it been they, they would have never returned us anything; instead they would have ceased all they could from our possessions.²⁶

These so-called "oppressed" and "second class citizens" preferred to be ruled Muslims because their rule was just and fair. The celebrated French political thinker, Montesquieu, also recognizes the fair treatment of *dhimmi*s in Islamic States:

Instead of a continual series of extortions devised by the subtle avarice of the Greek emperors, the people were subjected to a simple tribute which was paid and collected with ease.²⁷

Professor Bernard Lewis observes that *dhimmi*s welcomed the change from Byzantine to Arab rule who, "found the new yoke far lighter than the old,

both in taxation and in other matters, and that some even among the Christians of Syria and Egypt preferred the rule of Islam to that of Byzantines.”²⁸

The *jizya* was not to be forcefully collected. It was a tax paid willingly as a favor for the protection of the State. As previously noted, the *jizya* exempted *dhimmis* from serving in the military. Sir Thomas Arnold writes:

When any Christian people served in the Muslim army, they were exempted from the payment of this tax. Such was the case with the tribe of al-Jurajima, a Christian tribe in the neighborhood of Antioch who made peace with the Muslims, promising to be their allies and fight on their side in battle, on condition that they should not be called upon to pay *jizya* and should receive their proper share of the booty. When the Arab conquests were pushed to the north of Persia in A.H. 22, a similar agreement was made with a frontier tribe, which was exempted from the payment of *jizya* in consideration of military service. We find similar instances of remission of *jizya* in the case of Christians who served in the army or navy under the Turkish rule. For example, the inhabitants of Megaris, a community of Albanian Christians were exempted from the payment of this tax on condition that they furnished a body of armed men to guard the passes over Mounts Cithaeron and Geranea... The Christians who served as pioneers of the advance-guard of the Turkish army, repairing the roads and bridges, were likewise exempt from tribute and received grants of land quit of all taxation; and the Christian inhabitants of Hydra paid no direct taxes to the Sultan, but furnished instead a contingent of 250 able-bodied seamen to the Turkish fleet, who were supported out of the local treasury.²⁹

The State is primarily responsible for protecting its citizens. In Islam, the State is also required to cater to the welfare of all its citizens. Besides other infrastructure, this requires the establishment and maintenance of armed forces, a working judicial system and civil service. It would be unfair to only ask the Muslims to fund the State and exempt the non-Muslim citizens—equal in status otherwise—hence, the *jizya* tax.

Furthermore, only working men paid this tax. Women and children, the elderly, the unemployed and the sick or disabled were all exempt. But while non-Muslim women were exempt from the *jizya*, Muslim women were required to pay the Zakat regardless of whether or not they worked. Sir Thomas Arnold notes:

The tax was to be levied only on able-bodied males, and not on women or children. The poor who were dependent for their livelihood on alms and the aged poor who were incapable of work were also specially excepted, as also the blind, the lame, the incurables and the insane, unless they happened to be men of wealth; this same condition applied to priests and monks, who were exempt if dependent on the arms of the rich, but had to pay it if they were well-to-do and lived in comfort.³⁰

According to Robert Spencer, “ Payment of the jizya often took place in a peculiar and demeaning ceremony in which the Muslim tax official hit the *dhimmi* on the head or back of the neck. Tritton explained, "The *dhimmi* has to be made to feel he *is* an inferior person when he pays, he is not *to* be treated with honor .”³¹ He further adds: “the poll-tax on non-Muslims, which is the cornerstone of an entire system of humiliating regulations that institutionalize inferior status for non-Muslims in Islamic law.”³² Imam Nawawi, commenting on those who would impose a humiliation along with the paying of the *Jizyah*, said,

"As for this aforementioned practice (*hay'ah*), I know of no sound support for it in this respect, and it is only mentioned by the scholars of Khurasan. The majority (*jumhur*) of scholars say that the *Jizyah* is to be taken with gentleness, as one would receive a debt (*dayn*). The reliably correct opinion is that this practice is invalid and those who devised it should be refuted. It is not related that the Prophet or any of the rightly-guided caliphs did any such thing when collecting the *Jizyah*.”³³

Ibn Qudama also said that the Prophet (peace be upon him) and the four caliphs said that *Jizyah* should be taken with gentleness and respect.³⁴ Once, during the reign of 'Umar ibn al-Khattab, a *Jizyah* collector offered the taxes collected from the people to 'Umar, who was upset by the large amount and asked him if he had burdened the people. He replied, "No, not at all! We took only the surplus and lawful taxes." 'Umar asked, "Without any pressure or persecution?" The man replied, "Yes." 'Umar then said to him, "Praise be to Almighty Allah that the non-Muslim citizens have not been oppressed during my rule.”³⁵

According to many jurists word "*sâghirûn*" [Qu'ran 9:29] implies that the *Dhimmis* should be humiliated when paying the *Jizyah*. But the great scholar, Ibnul Qayyim refutes this interpretation. After having quoted different opinions, he says:

"This is groundless and the verse doesn't imply that. It is not related that the Prophet or the companions acted like that. The correct opinion regarding this verse is that the word "*saghâr*" means "acceptance" by non-Muslims of the structure of the Muslim right and their payment of *Jizya*.”³⁶

Since the Qur'an instructs that the *jizya* be voluntarily given, early Muslim rulers specifically forbade punishment on non-payment. Sir Thomas Arnold writes, “The collectors of the *jizya* were particularly instructed to show leniency, and refrain from all harsh treatment or the infliction of corporal punishment, in case of non-payment.”³⁷

The *jizya* tax was an agreement between those non-Muslims who *chose* to live in Muslim lands and under the Muslim government.

The *dhimmis* recognized that they were under the protection of the Muslim state. The Spanish Almorvids, for instance, are a living testimony to the integrity and compassion with which Muslims treated Jews and Christians. Historian Gwendlyn Hall writes in detail:

The Almoravids were a country people, religious and honest...Their reign was tranquil, and was untroubled by any revolt, either in the cities, or in the countryside...Their days were happy, prosperous, and tranquil, and during their time, abundant and cheap goods were such that for a half-ducat, one could have four loads of flour, and the other grains were neither bought nor sold. There was no tribute, no tax, or contribution for the government except the charity tax and the tithe. Prosperity constantly grew; the population rose, and everyone could freely attend to their own affairs. Their reign was free of deceit, fraud, and revolt, and they were loved by everyone..

.... Christians and Jews were tolerated within their realms. When the Christians rose up in revolt, they were not executed but were exiled to Morocco instead.³⁸

Umar (RA), as the epitome of the true spirit of *jizya* and *dhimmitude*, once, came across an old Jew begging on the street. Umar (RA) said to him, "Old man! We have treated you with justice. In your youth we took *jizya* from you and now left you to fend for yourself in your old age." Holding him by the hand, Umar (RA) took him to his own house, prepared food for him with his own hands, fed him and issued orders to the treasurer of the Bait al-Mal [Treasury] that the old man and all similar citizens of the state like him, should be regularly granted a daily allowance which should suffice for them and their dependents.³⁹

Once the son of the governor of Egypt beat a Coptic Christian and when the news of this event reached Omar (RA), he made this proverbial statement , "When did you enslave the people, even though their mothers gave birth to them as free men!" . The same spirit can be abundantly found in his advice to his successor "I entrust him with the *dhimmah* of Allah, and the *dhimmah* of his Messenger, he should fulfill the covenant with them, fight on their behalf and ensure that they are not burdened beyond their means".⁴⁰ . The aforesaid proofs and extracts from reliable history, in no way, corroborates Spencer's views that there was "an entire system of regulations that institutionalize an inferior status for non-Muslims in Islamic law."

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